

### **REMARKS**

This application is believed to be in condition for allowance because the claims are non-obvious and patentable over the cited references. The following paragraphs provide the justification for this belief. In view of the following discussion, the applicants hereby respectfully request further examination and reconsideration of the subject patent application.

#### **1.0 Rejections under 35 U.S.C. §103(a):**

In the Office Action of April 5, 2007, claims 1, 2, 4-15, 17-30, 32-45, and 47-50 were rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent 6,591,263 to Becker et al, hereafter referred to as "**Becker**," in view of US Patent 7,146,367 to Shutt, hereafter referred to as "**Shutt**."

In order to deem the Applicant's claimed invention unpatentable under 35 U.S.C. §103(a), a prima facie showing of obviousness must be made based on a combination of valid references. However, as fully explained by the M.P.E.P. and in accordance with both under 35 U.S.C. §102 and 35 U.S.C. §103, where the cited reference is an issued US patent, that reference is only valid where it is "a patent granted on an application for patent by another filed in the United States **before the invention by the applicant for patent.**"

Applicant filed the present application for patent on February 13, 2001. The **Shutt** reference cited by the Office Action in rejecting the present claims has an application filing date of May 31, 2002, with a claimed priority to U.S. provisional application Ser. No. 60/381,007, filed May 14, 2002.


Consequently, since the filing date of the present application precedes the filing date of the **Shutt** reference by over 15 months, the **Shutt** reference cannot be cited in rejecting the claims of the present application under 35 U.S.C. §103. Therefore, Applicant respectfully traverses the rejection of claims 1, 2, 4-15, 17-30, 32-45, and 47-50 under

35 U.S.C. §103(a) based on the invalidity of the cited references. In addition, it should be noted that this issue regarding invalidity of the **Shutt** reference has already been raised with the Examiner in a telephone call between attorney for Applicant, Mr. Mark Watson, and Examiner, Mr. Jean M. Corrielus, on April 24, 2007.

**CONCLUSION**

In view of the above, it is respectfully submitted that claims 1, 2, 4-15, 17-30, 32-45, and 47-50 are in immediate condition for allowance since the rejections under 35 U.S.C. §103(a) are invalid. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of claims 1, 2, 4-15, 17-30, 32-45, and 47-50 and to pass this application to issue. Additionally, in an effort to further the prosecution of the subject application, the Applicant kindly invites the Examiner to telephone the Applicant's attorney at (805) 278-8855 if the Examiner has any questions or concerns.

Respectfully submitted,



Lyon & Harr  
300 Esplanade Drive, Suite 800  
Oxnard, California 93036  
(805) 278-8855

---

Mark A. Watson  
Registration No. 41,370  
Attorney for Applicant